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Keeping an Eye on Washington

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**EPA's Anne Lindsay Provides CPDA Mid-Year Meeting Attendees an Update on
OPP Initiatives**

Speaking before the CPDA Mid-Year Meeting on March 12, 2008, EPA's Anne Lindsay provided attendees an update on a number of activities underway within the Office of Pesticide Programs (OPP). The EPA official's presentation included a status report on the inert ingredients that are slated for revocation on August 9, 2008 unless supporting data are submitted to the Agency that would enable EPA to make the required safety determination under FFDCA Section 408(c)(2) as amended by FQPA and reinstate the exemptions. In her remarks, Lindsay cited the work of the Joint Inerts Task Force (JITF), an entity formed by a group of interested registrants and inert suppliers for purposes of generating the data in support of many of the inert ingredient tolerance exemptions affected by the Agency's final revocation rule published in the *Federal Register* on August 9, 2006. She indicated that EPA will contact registrants that hold product registrations formulated with inert ingredients that are not being supported to discuss "optimal solutions" that could include reformulation or cancellation among other options. Lindsay also noted that EPA continues to work on the development of a draft Advanced Notice of Proposed Rulemaking that addresses data compensation for inerts as well as a Data Submitters List for inerts. In other initiatives described by Lindsay, EPA is working to include CAS numbers for all tolerance descriptors for food use inert ingredients in the CFR in the hopes that this activity will make it easier for registrants to search for approved inerts to use in their formulations. Lindsay added that the Agency believes it has devised an easy process to accomplish this task. Finally, Lindsay signaled that EPA is considering modifications to its internal Office of Pesticide Programs Information Network (OPPIN) that will enable the Agency to more efficiently track the status of inerts and inert mixtures as part of the review and approval process for these products.

Lindsay then turned her attention to EPA's implementation of its registration review initiative. She stated that registration review is the successor to the older reregistration program and that this activity ranks as a high priority for EPA. Beginning in 2009 and continuing through 2011, EPA plans to open 70 dockets per year in order to keep pace

with the deadlines set forth under PRIA II. As enacted, PRIA II requires EPA to complete the initial registration review of a pesticide no later than the later of October 1, 2022 or 15 years after the date of initial registration. Thereafter, subsequent re-evaluation of the pesticide must be completed every fifteen years following the date of completion of the initial registration review. Lindsay stated that with a schedule that calls for the opening of 70 registration review dockets per year, EPA will be able to complete 700 cases with over 1,000 active ingredients. She added that the Agency's goal is to complete actual decisions on some 20 registration review cases per year. According to Lindsay, EPA intends to integrate endangered species assessments into its registration review program. She explained that if EPA makes a finding that a pesticide is "not likely to adversely affect" or is "likely to adversely affect" an endangered species, the Agency must then enter into consultation with the "Services" (i.e., the Fish and Wildlife Service and the National Marine Fisheries Service). Lindsay told the CPDA audience that this consultation process will eventually be incorporated as part of registration review.

Lindsay cited the testing of pesticide products for potential endocrine disruption as another challenge that the Agency hopes to eventually merge with its registration review initiative. Commenting on the current status of EPA's implementation of its Endocrine Disruptor Screening Program, Lindsay indicated that the Agency is hoping to bring the three pieces of the EDSP to a conclusion before the end of 2008 so that the Agency can initiate testing requirements. The three components of the EDSP include: 1) the development and validation of test assays; 2) the selection of chemicals to be screened for endocrine effects (i.e., priority setting); and, 3) the development of procedures to require endocrine effects data.

In her other comments, Lindsay reported that EPA is moving forward on three changes to its pesticide container and containment rule that would: 1) extend the compliance date by which the label changes must be made to three years from the date EPA issued its guidance for implementing the rule; 2) clarify that any product released for shipment prior to the current August 17, 2009 compliance date is considered existing stock that is not subject to the new labeling requirements (without this clarification, potentially thousands of products already in the distribution chain will have to be relabeled to come into compliance with the rule); and, 3) exempt certain pesticide products from the non-refillable labeling requirements. Lindsay indicated that EPA hopes to persuade OMB that these changes are technical in nature and do not change the intent of the container and containment standards. As such, EPA is hoping that OMB will allow the rule to proceed on an expedited basis with the publication of a proposal for comment in the fall of 2008. In related container issues, Lindsay told the CPDA audience that EPA is working on the development of a plastic pesticide container recycling rule and hopes to release a proposal for public comment this fall.

Lindsay offered additional updates that include the following:

- EPA intends to issue for public comment a draft PR Notice on spray drift labeling in early summer of 2008 with the intent of finalizing it before the end of 2008;

- The Agency has allocated internal funding for modification of its IT systems to address web-based labeling initiatives that include the electronic submission and review of labels, the improvement of label content, and the electronic dissemination of product labels; and,
- EPA has established a nanotechnology work group, chaired by the Agency's Jack Housenger and Betty Shackelford, tasked with addressing the issue of nanotechnology in relation to the regulation and registration of pesticides under FIFRA.

CPDA Members Meet With EPA Pesticide Program Personnel in Conjunction with the Regulatory Portion of the Mid-Year Meeting Program

CPDA Mid-Year Meeting attendees had the opportunity to meet with Office of Pesticide Programs Registration Division Director Lois Rossi and other OPP staff members on the afternoon of Wednesday, March 12, 2008. EPA's Lois Rossi began the meeting with the announcement that the Agency is embarking on a comprehensive internal training program for product managers (PM's) aimed at bringing consistency into the label review process. Rossi told the CPDA group that OPP Director Debbi Edwards has embraced the concept of "label accountability" and she indicated that the training program under development will be geared to the revisions contained in the updated Label Review Manual. EPA plans to secure the services of a consultant who will be responsible for preparing a labeling training module. Agency staff signaled that EPA might consider making the training module available to external stakeholders at some future time.

In announcing the Agency's plans to conduct a training program for label reviewers, Lois Rossi cited a presentation on label accountability made by EPA's Jim Roelofs at the December 3-4, 2007 AAPCO meeting held in Arlington, Virginia. State and EPA regulators have identified problem areas associated with the use of vague, ambiguous, and unenforceable language on the label. For example, the use of advisory words such as "should," "may," or "recommended" could inadvertently lead users to disregard directions on the label thinking they are optional. In addition, confusion arising from poor organization of the contents of the label, such as less than optimal placement of precautionary statements or use directions, could increase the risk of accidental product misuse. Finally, users may not know how to comply with vague or undefined terms appearing on the label. Other problems identified by federal and state regulators include the appearance of conflicting statements on the label or language that departs from EPA guidance and policy, the inclusion of false and/or misleading claims on the label, and the insertion of "directions for use" statements that need clarification.

In other issues, EPA's Linda Arrington provided the CPDA group an overview of the 21-day content screen under PRIA. As reported previously, PRIA II directs the Agency to conduct a 21-day initial screen of the application for completeness. If a submission does not pass the 21-day content screen, EPA will make two written attempts to contact

the registrant in an effort to remedy the deficiency. If the Agency does not get a response back from the applicant on the 22nd day, the application screening team will draft a 21-day rejection letter for OPP Deputy Office Director Marty Monell's signature and close out the application. EPA personnel reported that since January 2008, only two RD submissions have been rejected due to uncorrected 21-day content screen deficiencies.

Arrington remarked that AD, BPPD, and RD staff have been working together to create a 21-day content screen worksheet (soon to be made available on the Agency's web site) that has columns for "yes," "no," and "n/a" to indicate if the items required for registration are present including the necessary EPA forms (completed, signed, and dated), the required number of copies of the proposed labeling, the necessary data to support registration, proper formatting of the application in accordance with PR Notice 86-5, and the use of an approved inert on the Confidential Statement of Formula (CSF). In addition, the 21-day content screen requires that at least 25 percent of the applicable registration service fee has been paid. With regard to payment of the fee, EPA personnel emphasize that if a registrant submits an application without a fee, the registrant will be invoiced for 25% of the action even if the submission is subsequently withdrawn in a timely manner. If the registrant does not pay that portion of the PRIA fee due, it will be treated as an outstanding debt to the federal government and collection activities will be initiated accordingly.

In her overview of the 21-day content screen, Arrington addressed the question raised by CPDA with regard to whether the "offer to pay" must be submitted with the application in order to pass the 21-day completeness check. Arrington explained that PRIA I contained several product categories for which the fee differed depending on whether the registrant elected a cite-all or selective citation of data option. As such, under PRIA I, the submission of an offer to pay as part of the application package was necessary for EPA to determine the appropriate fee category and invoice for the correct amount. If the offer to pay was missing, the application was automatically placed in a higher fee category. In PRIA II, me-too registrants that own the data or have an authorization letter from the data owner may submit their package under the R300 category which has a fee of \$1300 and a three-month decision timeframe. However, a me-too registrant that does not own the required data and who does not have an authorization letter from the data owner will be automatically placed in the R301 category which has a higher fee of \$1560 and a longer decision review period of four months. Personnel from OPP and EPA's Office of General Counsel are now working to determine how a missing "offer to pay" affects the registration decisions for the other fee categories. Presumably, the outcome of these discussions will help determine EPA's policy with regard to the timing of the submission of the "offer to pay" for PRIA categories other than R300 and R301.

In other updates, Rossi told CPDA members that two new product manager teams will be added to the insecticide and fungicide branches of RD. The Agency is also looking to hire an additional ten new individuals to its pesticide program in a variety of positions.

Following the update provided by Registration Division staff, EPA Field and External Affairs Division Director Bill Diamond joined the meeting and presented an overview of key initiatives underway within FEAD. Diamond reported that EPA recently finished its economic analysis of proposed revisions to the farm worker protection standard (WPS) and is now in the process of “front-loading” the required Small Business Regulatory Enforcement and Fairness Act (SBREFA) assessments with an eye toward proposing a draft rule in early 2010. He noted that while the proposed changes to the WPS could have an impact on pesticide product labeling, the focus of EPA’s draft rule will be on training and achieving improved competence for pesticide handlers.

In his other comments, Diamond discussed EPA’s plans to propose a plastic pesticide container recycling rule. The draft rule would establish a mandatory duty on registrants to support container recycling. According to Diamond, the EPA plans to send its draft proposal to OMB later this month for a 90-day review. If OMB completes its review within 90 days, a draft rule could be proposed for comment in the fall of 2008. Diamond told CPDA members that EPA will establish a 90-day public comment period once the draft rule is published in the *Federal Register*. Barring any unforeseen delays that might ensue with a change in presidential administrations, EPA hopes to issue a final plastic pesticide container recycling rule in the fall of 2009.

As envisioned by EPA, the recycling program would need to comply with the ANSI/ASABE standard for plastic pesticide containers that was developed with the input of CPDA and a broad cross-section of stakeholders. In addition, container recycling programs would be required to meet a mandatory minimum recycling rate that could range anywhere from 20%, 30% or 40%. CPDA staff asked Diamond whether the Agency might consider an exemption from the mandatory recycling requirement for small registrants that, on an annual basis, contribute 100,000 pounds or less of plastic pesticide containers into the stream of commerce. Diamond’s response suggested that the draft rule would not provide any type of exemption for small registrants. However, Diamond indicated that once the EPA initiative is released as a proposed rule for public comment, companies could address the possible establishment of an exemption for small registrants when providing their feedback to the Agency on the draft regulation.

CPDA Comments on EPA’s Plans to Implement EDSP

On March 12, 2008 CPDA submitted comments to EPA on the Agency’s draft Policies and Procedures for implementing the initial phase of the Endocrine Disruptor Screening Program (EDSP) and accompanying Information Collection Request (ICR). In its comments, CPDA objected that EPA did not allow adequate time for thoughtful deliberation on the many complexities presented in the draft document. CPDA emphasized that the draft document includes complicated procedures for cost sharing and data compensation, some of which rely on EPA’s interpretation of select statutory provisions. “It is not at all clear how and to what extent the Agency’s interpretation is legally defensible or how it will affect the different business interests among entities regulated by the Notice,” CPDA stated. CPDA added that other proposed procedures

involve protection of confidential business information under different statutes, questionable mandatory informal administrative resolution of challenges to testing orders, and an inequitable data compensation scheme in which data compensation rights for the same tests vary based on the specific use of a pesticide ingredient.

CPDA described specific deficiencies in the proposed Policies and Procedures document including its lack of a fully developed mechanism for data compensation and CBI for non-food use inerts, an inadequate definition of what “final agency action” provides a basis for judicial review of testing orders, an uncertain process for identifying potential recipients of “catch-up” test orders and their enforceability, and an insufficient mechanism for allowing chemical producers to opt out of supplying chemicals for use in pesticide products. In addition, CPDA pointed out that FFDCA Section 408(p)(5)(A) does not require EPA to include inerts in the initial screening of chemical candidates for potential interaction with endocrine systems. CPDA maintained that this provision of the statute gives EPA the option of issuing orders to either registrants *or* manufacturers/importers of pesticide chemicals thereby allowing the Agency discretionary authority to limit initial testing requirements to pesticide active ingredients. As such, CPDA urged EPA to postpone testing of inert ingredients until a set of fair and equitable procedures are developed that address cost-sharing, data compensation, and CBI protections for inerts. Once developed, such procedures could be proposed for public comment and finalized as the Agency continues to implement and move forward with other aspects of the EDSP.

In other areas, CPDA questioned the Agency’s insistence on adhering to an accelerated schedule for EDSP implementation that calls for issuing test orders by mid-2008 in the absence of a statutory deadline for initiating this activity and in light of the fact that EPA has not finalized adequate procedures to implement the EDSP. As such, CPDA strongly encouraged EPA to defer the issuance of test orders until consensus procedures that fully address the complexities of the EDSP can be developed.

As mentioned above, CPDA also addressed EPA’s draft ICR accompanying the proposed EDSP Policies and Procedures. Under the Paperwork Reduction Act (PRA), EPA must estimate the burden and costs associated with collecting the required testing data for the initial group of chemical candidates selected for screening under the EDSP. The Office of Management and Budget (OMB) will not approve a “collection” until EPA provides an ICR that describes the information collection activities in detail. CPDA asserted that the assay cost figures upon which EPA bases its estimated information collection burden are too low. Furthermore, CPDA emphasized that EPA did not consider ancillary burdens such as those associated with analytical chemistry testing, repeated assays and batteries, and transaction and opportunity costs in deriving its burden estimate. CPDA urged the Agency to conduct a formal cost estimate survey of the proposed Tier 1 screening assays and to include the actual test burden in the ICR before providing the results to OMB.

EPA Releases PRIA Annual Report

EPA has released its annual report which addresses the Agency's progress in implementing the Pesticide Registration Improvement Act (PRIA) and provides an update on process improvements underway within OPP. The newly released annual report covers FY 2007 (October 1, 2006 – September 30, 2007), the last fiscal year under the original statute (PRIA II was signed into law on October 4, 2007 with a retroactive effective date of October 1, 2007). The Annual Report includes a discussion of product chemistry issues in relation to PRIA due date extensions. EPA states that product chemistry issues, including issues pertaining to inerts, were involved in at least a third of PRIA due date extensions across all three registering divisions. In an effort to address this situation, EPA has developed materials to be included in the Blue Book to guide applicants in their product chemistry submissions with the goal of addressing common errors. The PRIA Annual Report describes several other initiatives underway that are aimed at helping registrants improve product chemistry submissions. Among these, EPA is considering the development of an electronic tutorial "for novices" that would provide detailed step-by-step guidance on how to properly submit a product chemistry package with the application for registration. In addition, the Agency is evaluating the possible creation of an electronic "smart" Confidential Statement of Formula form that would serve as a template for a properly completed CSF. Specifically, the smart form would let an applicant know when a required portion of the CSF has not been completed and would alert applicants if the percent composition column did not add up to 100%. The Agency is also considering the establishment of an expert group on product chemistry whose activities would resemble those of the OPP Labeling Committee. Questions on product chemistry could be submitted to members of this group who would develop responses and post the answers for public access on EPA's web site. The group would also reference key sites and resources on-line that could provide useful information on product chemistry to registrants and applicants.

In other EPA activities, the PRIA Annual Report includes an update on the Agency's electronic label review initiative. As reported previously, EPA is hoping that the use of e-labels will allow the Agency to: 1) more easily compare proposed label changes to the previous label; 2) comment on the label by indicating required corrections through use of electronic media; and, 3) track the label by linking e-labels to the OPPIN tracking system. An e-label must be sent to EPA on a CD-ROM with text as a PDF file. After its review by EPA personnel, the marked-up label can be e-mailed to the registrant and then the revised label can be e-mailed back to the Agency. EPA reports that during 2007, all regulatory staff in the Registration, Antimicrobials, and Biopesticides and Pollution Prevention Divisions underwent training in the use of e-labeling. However, EPA acknowledges that even though the number of electronic label submissions increased from 50/month in early 2007 to 80/month in late 2007, these numbers represent "only a fraction of the total number of labels submitted." As such, the Agency will encourage registrants to submit more labels in PDF format and intends to provide additional individual staff guidance. In addition, EPA plans to modify its internal tracking systems to capture the number of electronic labels submitted and reviewed so as to better monitor the progress of its e-labeling initiative.

A copy of the PRIA Annual Report for FY 2007 may be accessed online at http://www.epa.gov/pesticides/fees/2007annual_report/pria_annual_report_2007.htm.

President Signs into Law Legislation for a Technical Correction to Exempt IR-4 Submissions from PRIA Fees

The President has signed into law S. 2571, legislation that makes a technical correction to FIFRA, as amended by the Pesticide Registration Improvement Renewal Act, to exempt IR-4 submissions from PRIA fees. The Senate passed the measure on January 29, 2008 by unanimous consent. The House approved the bill on February 14, 2008 by a vote of 400 to 0 with 28 not voting. The language providing the technical correction was originally included in the Farm Bill that awaits consideration by a conference committee that has yet to be named. However, in an effort to expedite passage of the technical correction, the provision was removed from the Farm Bill and considered as a stand-alone bill. Now that the measure has become law, EPA is expected to issue refunds, retroactive to October 2007, for any IR-4 submissions that are eligible for the 100% fee exemption.

In its enactment of both PRIA I and PRIA II, Congress intended that applications solely associated with tolerance petitions submitted by the Inter-Regional Project Number 4 (IR-4) be completely exempt from payment of a registration service fee where such an exemption is in the public interest. However, because of the provision in PRIA II that makes a portion of the PRIA fee non-refundable, the Agency began invoicing IR-4 applicants for 25% of the appropriate fee retroactive to the start of PRIA II (i.e., October 1, 2007). The language in S. 2571 remedies this situation by making it clear that IR-4 applications can be entirely exempted from paying registration service fees if the Agency determines that the exemption is in the public interest.

President Bush Signs into Law Measure to Provide Short-Term Extension of Current Farm Bill Authorities

On Friday, March 14, 2008, President Bush signed into law S. 2745, legislation which extends the authorities provided under the Farm Security and Rural Investment Act of 2002 through April 18, 2008. The extension provided for under this legislation will allow more time for Congress to reach a final agreement on a new Farm Bill. In his statement on the Farm Bill made on March 13, 2008, President Bush stated, "...My Administration has been eager to work with Congress. We have offered legislative language and a list of potential spending offsets to ensure Congress does not increase taxes, and while insisting on significant program reforms, we have demonstrated flexibility on how to achieve real reform. I have also made it clear that any final farm bill that includes a tax increase or does not include reform will be met with a veto."

The President added that if a final Farm Bill agreement is not reached by April 18, he would call upon Congress to extend current law for at least one year. “While long-term extension of current law is not the desired outcome,” the President stated, “I believe the government has a responsibility to provide America's farmers and ranchers with a timely and predictable farm program -- not multiple short-term extensions of current law. Without a predictable policy, agriculture producers will be unable to make sound business decisions with respect to this year's crop.”

As reported previously, legislation strongly supported by CPDA titled the Agricultural Business Security Tax Credit Act was included as part of the Senate passed version of the Farm Bill. Originally introduced as S. 551 by Senators Pat Roberts (R-KS), Ben Nelson (D-NE), and Johnny Isakson (R-GA), the Agricultural Business Security Tax Credit Act would help eligible agricultural businesses to partially offset security costs by providing a tax credit of up to \$100,000 per site for security measures designed to increase protection of agricultural pesticides and fertilizers that are manufactured, distributed, or stored on site. This important legislation will provide agricultural retailers, distributors and other eligible agricultural businesses the financial resources necessary to improve security at agricultural fertilizer and pesticide storage facilities thus reducing threats from outside entities. CPDA has urged members of the House and Senate to retain this language in any final Farm Bill conference agreement.

Chemical Site Security Legislation Introduced in the House

On March 11, 2008, Representative Benny Thompson (D-MA), Chairman of the House Committee on Homeland Security, introduced H.R. 5577, the Chemical Facility Anti-Terrorism Act of 2008. The bill would extend and modify the Chemical Facility Anti-Terrorism Standards (CFATS) that are scheduled to sunset in October 2009 in the absence of further Congressional action. The measure was reported favorably out of full Committee on March 6, 2008 by a vote of 15 to 7. The legislation has now been referred to the House Committee on Energy and Commerce for further consideration.

H.R. 5577 would continue the current requirement that DHS maintain a list of chemical facilities that meet certain risk criteria and assign these facilities to one of at least four risk-based tiers. DHS would be required to develop security standards and procedures for facilities on the list. In addition, DHS would continue its authority to designate certain chemical substances as substances of concern and to establish a threshold quantity for these materials. In so doing, the Secretary of DHS would be directed to consider the potential for death, injury, and serious adverse effects to human health, the environment, critical infrastructure, national security, the national economy, and public welfare from a terrorist-related release. The Secretary of DHS would be authorized to rely upon the Appendix A list utilized under the CFATS regulations established pursuant to Public Law 109-295 in meeting this obligation.

The Thompson bill would require owners and operators of affected chemical facilities to conduct an assessment of the vulnerability of their sites to a terrorist incident, and prepare and implement a security plan that addresses the results of the vulnerability

assessment. The bill would also call upon the owners and operators of such facilities to maintain a current copy of the assessment and security plan at their facilities and to allow DHS access to their properties for site inspections and verifications. Owners and operators of chemical facilities would be required to periodically submit a review of the adequacy of the vulnerability assessment or facility security plan that includes a description of any changes made on-site. The bill would also provide whistle-blower protections for employees who disclose information to DHS regarding problems, deficiencies, or vulnerabilities at a chemical facility. DHS would be authorized to conduct certain risk-management drills, known as red-team exercises, at facilities assigned to a high-risk tier. H.R. 5577 would also preempt any state or local regulation that conflicts with the security activities authorized by the legislation.

In its other provisions, H.R. 5577 would allow the DHS Secretary to certify third-party entities to conduct a review of information submitted to the Department that includes vulnerability assessments, site security plans, and alternate security programs. The measure would allow the use of certified third-party entities to do site inspections of covered facilities. The legislation would also direct the DHS Secretary to promulgate regulations that prohibit the unauthorized disclosure of protected data generated by chemical facilities or collected by Federal, State and local governments in response to the mandates established by the bill.

One of the more troubling aspects of H.R. 5577 is language that would require *any* covered chemical facility to include in its site security plan an assessment of methods to reduce the consequences of a terrorist attack. While H.R. 5577 does not make a specific reference to “inherently safer technology,” the language of H.R. 5577 embodies the very concept or mindset of an IST mandate. Methods to reduce the consequences of a terrorist attack may include input substitution, changes or redesign of manufacturing and/or storage processes, technology modifications, or use of less hazardous substances among other options. As part of its assessment, a covered chemical facility would be required to justify in writing to the DHS Secretary the use of certain processes and methods over others explaining the degree to which each method would reduce the consequences of a terrorist attack, potential costs or savings that would be realized from applying each method, and “any other information” considered during the assessment. Rather than limiting the scope of these requirements solely to those chemical facilities that truly are high risk, H.R. 5577 would create an expansive mandate applicable to *all* covered facilities. In turn, H.R. 5577 would create burdensome and costly paperwork requirements for potentially thousands of chemical facilities across the country that do not pose a high degree of risk and would fall far short in achieving any commensurate increase in the security of the chemical industry’s infrastructure.

In a related development, on March 5, 2008, Representative Albert Wynn (D-MD), Chairman of the House Energy and Commerce Subcommittee on Environment and Hazardous Materials, introduced legislation (H.R. 5533) titled the “Chemical Facilities Security Act of 2008” which would give permanent status to the CFATS by removing the October 2009 sunset date. Unlike the Thompson bill, the legislation introduced by Representative Wynn does not include any language that seeks to establish an IST

mandate. As such, Representative Wynn's legislation would ensure that chemical site security standards are not inappropriately diluted to include non-security related activities that fall within the environmental arena. CPDA is concerned that the creation of any IST mandate could be abused by activist groups as a "back-door" tool for limiting or eliminating in entirety the production of certain chemical products that provide important societal and economic benefits.

CPDA will continue to engage in the chemical facility security debate now underway in Congress and will keep its members informed of new developments as they occur.

President's FY 2009 EPA Budget Request Includes Proposed Pesticide Fees Beyond those Authorized by PRIA

As reported previously, on Monday, February 4, 2008, President Bush released his FY 2009 budget request for the U.S. Environmental Protection Agency. Included in the spending plan is a proposal calling for the imposition of new pesticide fees beyond those authorized under PRIA II. According to Congressional Justification documents accompanying the President's budget request, the Bush Administration fee proposal calls for: 1) the generation of \$13 million in new tolerance fees by removing the PRIA statutory prohibition that bars EPA from collecting this fee; 2) an additional \$12 million in registration fees (beyond those already authorized by PRIA II) that will "better align fee collections with program costs;" and, 3) a restructuring of maintenance fees to provide for a \$23 million increase from the current level of \$22 million to \$45 million per year. The Administration states that it will seek these changes through legislative language.

While it is very unlikely that the Bush fee proposal will gain any momentum, CPDA will continue to monitor the progress of the EPA FY 2009 budget request during the Congressional deliberations over the Agency's funding now underway.

EPA FY 2009 Budget Documents Highlight the Economic Benefits of "Me-Too" Generic Pesticides

In its Congressional Justification accompanying the President's FY 2009 budget request, the Environmental Protection Agency has given special recognition to the important value and benefits provided to the user community by making generic "me-too" pesticide products available in the marketplace. In making a specific reference to generic pesticide products, EPA has acknowledged the important role played by these products in bringing down pesticide costs thus benefiting growers and consumers alike.

In its FY 2009 Congressional Justification, EPA explains that Section 3 of FIFRA authorizes the Agency to register "me-too" products that are identical or substantially similar to already registered products. EPA states, "...The entry of these new products,

also known as 'generics,' into the market can cause price reductions resulting from new competition and broader access to products. These price declines generate competition that provides benefits to farmers and consumers.”

CPDA is pleased that EPA has highlighted the important economic benefits associated with the registration of generic pesticides and the crucial role played by these products in bringing competition to the marketplace and helping farmers and growers reduce input costs.